

United States Court of Appeals for the Eleventh Circuit

No. 23-12408, 23-12411

BLAKE WARNER, *on behalf of his minor child J.W.*

Plaintiffs-Appellants,

v.

THE SCHOOL BOARD OF
HILLSBOROUGH COUNTY, FLORIDA

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
USDC No. 8:23-CV-181

UNOPPOSED MOTION TO CONSOLIDATE

Plaintiffs-Appellants moves to consolidate *Warner v. School Board of Hillsborough County, Florida*, 23-12408, (11th Cir.) (“Warner 1”) and *Warner v. School Board of Hillsborough County, Florida*, 23-12411, (11th Cir.) (“Warner 2”) pursuant FRAP 3(b)(2) because the two appeals are from the exact same order that affected both cases, and therefore involve the exact same facts, law, and parties. For the same reasons, Mr. Warner also moves to waive the filing fee for *Warner 1*. The filing fee for *Warner 2* has already been paid.

1. *Warner 1* was filed on January 24, 2023, the gravamen of which was the alleged unlawful operation of a segregated school system which manipulated property values causing minorities—including Mr. Warner—to be priced out of certain

neighborhoods.

2. *Warner 2* was filed on May 10, 2023, one day after the School Board promulgated a new student assignment boundary in Mr. Warner's neighborhood, challenging the assignment of his minor child J.W. to a further away predominantly minority failing school, despite the closest school being an A-rated white school.
3. On July 5, 2023, the trial court entered an order dismissing *Warner 2* without prejudice for purported claim splitting with leave to amend *Warner 1* to raise *Warner 2*'s dismissed claims in *Warner 1*. The court further ordered “[i]f Warner intends to appear as a plaintiff to assert his son's claims, Warner must appear through a lawyer. No later than JULY 28, 2023, a lawyer must appear”. A copy of this order was filed in *Warner 1*.
4. On July 10, 2023, Mr. Warner complied with the court order and amended the *Warner 1* complaint, but did not add any of his child's claims.
5. Mr. Warner filed a timely Notice of Appeal of the exact same order in both *Warner 1* and *Warner 2* on July 21, 2023.
6. Mr. Warner conferred with opposing counsel who indicated that they were unopposed to the relief sought in this motion.

WHEREFORE Plaintiffs-Appellants respectfully requests that this Court consolidate *Warner 1* and *Warner 2* and waive *Warner 1*'s filing fee.

CERTIFICATE OF COMPLIANCE FRAP 32(G)

I certify that this paper contains 343 words and complies with type-volume limitations.

7-26-2023

Date



Signature

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